## CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	✓ Force	e 🔽	Discourt.	U.S.
Chart Riggall		Squad #4	201807080	☐ Abus	se 🗀	] O.L.	✓ Injury
Incident Date(s)		Location of Incident:		Precin	ct: 1	8 Mo. SOL	EO SOL
Tuesday, 08/14/2018 3:05 PM		85th Street and Fort Ha	milton Parkway	68 2/14/2020 2/14/2020			
Date/Time CV Reported		CV Reported At:	How CV Reported:	Date/Time Received at CCRB			
Tue, 08/14/2018 5:52 PM		IAB	Phone	Mon,	Mon, 08/27/2018 10:57 AM		Л
Complainant/Victim	Type	Home Addre	SS				
Subject Officer(s)	Shield	TaxID	Command				
1. POM Michael Roder	25253	935610	068 PCT				
2. POM Hassan Gheith	07404	938557	068 PCT				
3. POM Manuel Martinez	03482	955136	068 PCT				
Witness Officer(s)	Shield N	o Tax No	Cmd Name				
1. POF Nancy Afaneh	04290	952385	068 PCT				
Officer(s)	Allegatio	n			Investi	gator Recon	nmendation
A.POM Manuel Martinez	Force: Poagainst §	olice Officer Manuel Ma	rtinez used physical	force			
B.POM Manuel Martinez	Force: Police Officer Manuel Martinez used physical force against § 87(2)(b)						
C.POM Manuel Martinez	Discourtesy: Police Officer Manuel Martinez spoke discourteously to §87(2)(b)						
D.POM Hassan Gheith	Force: Police Officer Hassan Gheith used physical force against § 87(2)(b)						
E.POM Michael Roder	Discourtesy: Police Officer Michael Roder spoke discourteously to §87(2)(b)						

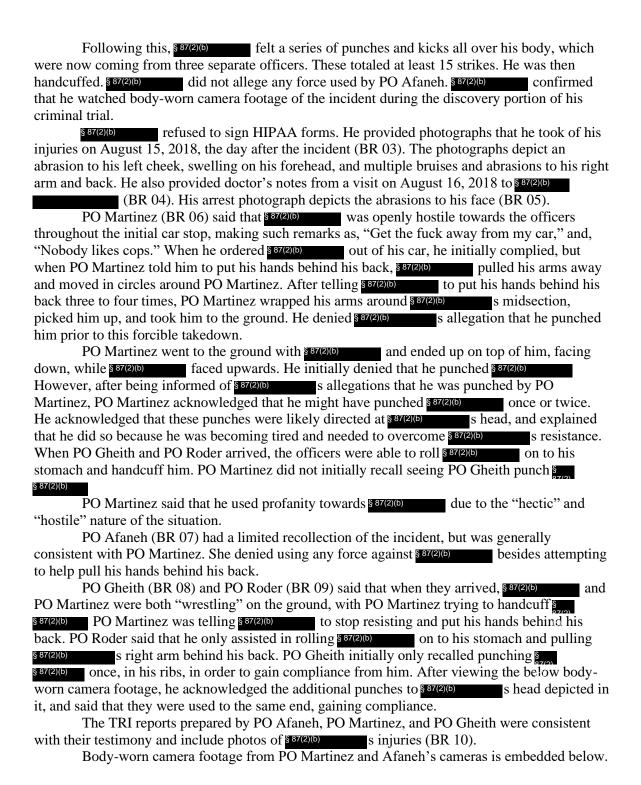
## **Case Summary**

On August 14, 2018, Sgt. Gerard Iucci of the 68th Precinct reported this incident to the IAB Command Center by telephone on behalf of \$87(2)(6) On August 27, 2018, it was received by the CCRB. On August 14, 2018, at approximately 3:05 PM, in the vicinity of 85<sup>th</sup> Street and Fort Hamilton Parkway in Brooklyn, PO Manuel Martinez and PO Nancy Afaneh of the 68th Precinct s vehicle for running a stop sign. After determining that §87(2)(b) driver's license was suspended, the officers ordered him out of the vehicle and told him to put his hands behind his back. PO Martinez took \$87(2)(b) to the ground (Allegation A: Force, ), and continued to punch \$87(2)(b) in the face and head (Allegation B: Force,

). While attempting to subdue \$87(2)(b) PO Martinez told \$87(2)(b) to "p [his] hands behind [his] fucking back," and several variations thereof (Allegation C: Discourtesy, §87(2)(9). PO Michael Roder and PO Hassan Gheith responded to the scene, and PO Gheith punched \$87(2)(b) at least five times (Allegation D: Force, \$87(2)(9) was handcuffed, PO Roder said to him, "Yeah, you are gonna get fucked" (Allegation E: Discourtesy, § 87(2)(9) was arrested and charged with § 87(2)(b) Body-worn camera footage of the incident was obtained and is discussed below. Findings and Recommendations Allegation (A) Force: Police Officer Manuel Martinez used physical force against [87/2] Allegation (B) Force: Police Officer Manuel Martinez used physical force against \$87(2) Allegation (C) Discourtesy: Police Officer Manuel Martinez spoke discourteously to [387(2)] Allegation (D) Force: Police Officer Hassan Gheith used physical force against 

222 It is undisputed that after PO Martinez and PO Afaneh asked §87(2)(6) to step out of the car and put his hands behind his back, §87(2)(b) did not comply. PO Martinez forcibly to the ground and punched him multiple times. PO Afaneh requested an additional unit, and PO Roder and PO Gheith responded. PO Gheith punched § 87(2)(b) least five times, after which he, PO Roder, and PO Martinez successfully handcuffed (BR 02) said that, before he was taken to the ground, PO Martinez punched him in the face twice within 10 seconds of his exiting of his car. PO Martinez then hugged around his mid-section, picked him up, and slammed him to the pavement \$87(2)(b) compared this to being "suplexed"). He ended up on his back with PO Martinez on top of him. PO Martinez then repeatedly punched \$87(2)(b) in the head, approximately 10 to 15 times over the course of 30 to 40 seconds. \$87(2)(b) attempted to block these punches with his arms.

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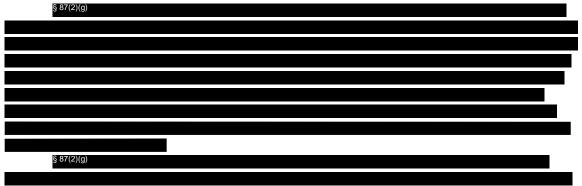
PO Martinez.mp4

PO Afaneh.mp4

The first video, from PO Martinez's camera, depicts the interaction between officers and leading up to PO Martinez asking \$87(2)(b) to step out of the car. The video is consistent with PO Martinez's account, insofar as it captures \$87(2)(6) saying, "Get the fuck away from my car," and, "I don't like cops. I hate you guys with passion." As §87(2)(b) out of the car, he repeatedly asks to see his license as PO Martinez tells him to put his hands behind his back. PO Martinez's hands are in view of the camera for the majority of this portion of the video, and no punches to § 37(2)(b) s face are captured prior to him being taken to the ground. The video from PO Afaneh's camera captures §87(2)(b) pushing away from PO Martinez while they are both still standing. PO Martinez then takes § 87(2)(b) described above. They end up face to face, with PO Martinez on top. One punch by PO Martinez s face is visible. § 87(2)(b) attempts to push PO Martinez's hands away from him. At the 1:01 mark, PO Martinez rolls \$87(2)(6) so that he is face-down, and punches twice in the side/rear area of his head. At the 1:10 mark, PO Gheith and PO Roder arrive. PO Gheith punches \$87(2)(b) several times; at least four are depicted. The visible s torso. §87(2)(b) is successfully handcuffed at the 1:39 punches are directed at § 87(2)(b) mark. Throughout the process of attempting to handcuff \$87(2)(b) both before and after the arrival of PO Gheith and PO Roder, PO Martinez can be heard saying, "Put your hands behind your fucking back," and several variations thereof. Patrol Guide Procedure 221-01 (BR 11) states that force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. The

Patrol Guide Procedure 221-01 (BR 11) states that force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. The following factors should be considered when determining whether the force used was reasonable: 1) the nature/severity of the crimes/circumstances, 2) actions taken by the subject, 3) duration of action, 4) immediacy of the perceived threat, 5) whether the subject is actively resisting custody, 6) whether the subject is attempting to evade arrest by flight, 7) number of subjects in comparison to the number of MOS, 8) size, age, and condition of the subject in comparison to MOS, 9) subject's violent history, if known, 10) the presence of a hostile crowd, and 11) whether the subject is apparently under the influence of a stimulant or narcotic.

Limited profanity, when used to maintain order in a stressful street encounter, does not constitute misconduct. NYPD v. Court, DCT 79627/04 (BR 12).



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§ 87(2)(g)
§ 87(2)(g)
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Allegation (E) Discourtesy: Police Officer Michael Roder spoke discourteously to \$87(2)
It is undisputed that, after \$87(2)(b) was handcuffed, he said "You guys are gonna get fucked." PO Roder responded, "Yeah you're right, you are gonna get fucked."  \$87(2)(b) did not make this allegation during his interview. It was, however, captured on body-worn camera footage, as depicted below.
Allegation F - 1.mp4 Allegation F - 2.mp4
The first video offers clearer audio of the statement, while the second depicts PO Roder saying it.  PO Roder did not dispute making this statement and said he did not have a reason for doing so.
Police officers are prohibited from making discourteous or disrespectful remarks towards the public. <u>Patrol Guide</u> Procedure 203-10 (BR 13).
§ 87(2)(g)
Civilian and Officer CCRB Histories
<ul> <li>This is the first CCRB complaint to which \$87(2)(b) has been a party (BR 14).</li> <li>PO Manuel Martinez has been a member of service for five years, and has been a subject</li> </ul>
in two prior CCRB complaints with three allegations, none of which were substantiated.

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CCRB Case # 201807080

§ 87(2)(g)

in six prio substantia o Ir o Ir	or CCRB complaints with ted. §87(2)(9) a 201702427, two allegat	nber of service for thirteen years and he twenty-four allegations, five of which it is of a strip-search were substantiate of a retaliatory summons and a stop were	h were
	nel Roder has been a men any prior CCRB compla	nber of service for fourteen years and ints.	has not been a
• § 87(2)(b) of New Y York City	plaint was not suitable fo , on behalf of ork claiming false arrest,	filed a Notice of Clair, emotional distress, negligence on the personal injury to the head, neck, che	part of the New
Squad No.:			
Investigator:	Signature	Print Title & Name	Date
Squad Leader:	Signature	Print Title & Name	Date
Reviewer:	Signature	Print Title & Name	Date

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